

Wednesday - January 21, 2009

EXHIBIT NO. 2

DATE

Jan. 21, 2009

PAGE NO.

SB129

Senator Kelly Gebhardt, Chair of the Senate Natural Resources Committee and members of the committee

I submit written testimony for my support of our private timber industry and my families ranching operations that have been involved with a conservation easement with the Montana Fish, Wildlife and Parks since 1998. The lands under the Conservation Easement involved approximately 4000 acres of private classified forested lands that are bordered by the Helena National Forest and 320 acres of classified forest school trust lands leased by the ranch.

The private, state and federal classified forest lands are being affected by the pine beetle and spruce budworm infestations. They are affected by the current fire suppression actions by local governments, state and federal agencies; and the increase of the wildland-urban interface areas within the Canyon Creek Community.

The Fire Suppression Interim Committee legislative efforts on fuel reduction based on the health of our private, state and federal forests with the pine beetle and spruce budworm epidemic in Montana and other western states can be enhanced by working together on the 30 or more fire suppression bills.

We must work with the private timber and agriculture industries, which are struggling to survive given the state of our national and world economies, which have made the investment in specialized equipment. The effects of the dead and dying forest is and will affect access roads, powerlines and other infrastructure impacting all of us directly or indirectly.

I support only a portion of Senate Bill 129 and have several questions regarding the efforts of the bill having worked with my family these last 15 years when we first began working with the Montana Fish, Wildlife and Parks (FWP) on a Conservation Easement.

1. The decision between a private landowner and a conservation land trust entity takes trust; clear understanding of the conservation values that being protected and the tax implications of donating, or selling a conservation easement.
2. The stipulations that a landowner voluntary place on his or her property has to be balanced on the personal values they place on conservation practices, protecting water quality, and how an agriculture producer who has timber can continue to manage and harvest for timber production and wildlife values in the future.
3. The family worked with FWP to have the ability of managing and harvesting timber, while still maintaining the wildlife values with FWP for public use.

If we are going to address an incentive for property owners, both those that own a 1 acre lot with a house or 160 acres, that are identified within the wildland-urban interface, they provide an tax incentive for everyone to take the responsibility to manage the timber resources.

The Grady Family has completed timber harvesting on the ranch properties under the Conservation Easements and under the terms of the easement, had to develop a timber management and harvest plan, working with a private forest consultant and representatives of FWP. Fire Mitigation was part of the plan to provide tree spacing to promote a healthy timber stand, keep fires on the ground and prevent the laddering of fuels into the crown of the timber stands, develop fuel breaks, and access roads for suppression resources.

We utilized mechanized harvesting equipment that was discussed with supporting documentation to the committee on Monday January 19, 2009 under testimony in reference to Senate Bill 107 to meet some of the timber management and wildlife objectives.

I do not support a wildfire risk reduction plan that I feel can already be developed and incorporated within a forest management plan. The family has worked with a private forestry consultant with the input of FWP over the years that has meet the objectives agreed upon the family and FWP.

The requirements under Section 5 I feel are very restrictive and will only hinder any effort by a private landowner looking at this type of conservation easement, discourage sound land management practices and perhaps prevent any ability of an owner of a large classified forest owner to subdivide their properties or the transferring the property to a family member.

Richard E. Grady

Richard E. Grady

9312 Lincoln Road West

Canyon Creek, Montana 59633

General Comments

Richard E. Brady

9212 Lincoln Road West
Canyon Creek MT
59632

2009 Montana Legislature

[Additional Bill Links](#)

[PDF \(with line numbers\)](#)

An Incentive For all
classified owners
to encourage
Forest Management!

Submitted to Committee
1-21-09

SENATE BILL NO. 129

INTRODUCED BY D. LEWIS

BY REQUEST OF THE FIRE SUPPRESSION COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE VOLUNTARY PRIVATE LAND WILDFIRE MITIGATION ACT; ESTABLISHING A VOLUNTARY PRIVATE LAND WILDFIRE MITIGATION POLICY; AUTHORIZING VOLUNTARY WILDFIRE MITIGATION CONSERVATION EASEMENTS IN THE WILDLAND-URBAN INTERFACE; AUTHORIZING WILDFIRE RISK REDUCTION PLANS; PROVIDING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION WITH RULEMAKING AUTHORITY; ESTABLISHING A TEMPORARY TAX CREDIT FOR QUALIFYING VOLUNTARY WILDFIRE MITIGATION CONSERVATION EASEMENTS; REQUIRING THE DEPARTMENT OF REVENUE AND THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO REPORT TO THE LEGISLATURE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE."

How many acres are we going to need to make any difference
A lot has to be considered by the Land Dept. to even look at
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: the Cost-Benefit
Ratio on such a
estate planning tool!

NEW SECTION. Section 1. Short title. [Sections 1 through 5] may be cited as the "Voluntary Private Land Wildfire Mitigation Act".

NEW SECTION. Section 2. Voluntary private land wildfire mitigation policy. The legislature finds and declares that:

(1) with more and more homes being built in the state's wildland-urban interface, the number of people and the value of structures, personal property, and fixtures at risk of destruction from wildfire increases substantially, dramatically inflating the cost and risk of fighting fire and dangerously stretching the capacity of firefighters to fight wildfires;

(2) increased residential development in the wildland-urban interface is creating substantial burdens on state and local government services and resources;

(3) the contribution of voluntary wildfire mitigation conservation easements and the voluntary establishment of wildfire risk reduction plans by owners of property located in the wildland-urban interface will substantially reduce the risks, costs, and burdens on local and state services associated with fighting wildfires in the wildland-urban interface;

(11) "Voluntary wildfire mitigation conservation easement" means a voluntary grant of a conservation easement on and over a private property owner's property pursuant to the provisions of Title 76, chapter 6, to preserve and protect open-space lands for the purpose of reducing the risks, costs, and burdens on local and state firefighting services.

(12) "Wildfire" has the meaning provided for in 76-13-102.

(13) "Wildland-urban interface" has the meaning provided for in 76-13-102.

NEW SECTION. Section 4. Voluntary wildfire mitigation conservation easements. Subject to the provisions of [sections 1 through 5], an owner of private property in the state may grant a voluntary wildfire mitigation conservation easement only if:

(1) the property subject to the voluntary wildfire mitigation conservation easement is located in a designated wildland-urban interface as defined by:

(a) a county community wildfire protection plan under Public Law 108-148, the Healthy Forests Restoration Act of 2003;

✓ (b) zoning regulations enacted pursuant to Title 76, chapter 2, part 2;

✓ (c) a county growth plan pursuant to 76-1-601(3)(j)(i); or

✓ (d) the department through an administrative rulemaking process that:

✓ (i) identifies wildland-urban interface parcels in each county;

✓ (ii) delineates each wildland-urban interface parcel on maps; and

✓ (iii) ensures that the maps and information on the maps is available to the public, local governing bodies, and governmental fire agencies organized under Title 7, chapter 33;

✓ (2) the voluntary wildfire mitigation conservation easement complies with the provisions of Title 76, chapter 6;

✓ (3) the voluntary wildfire mitigation conservation easement is held by a qualified voluntary wildfire mitigation conservation easement holder;

(4) the terms of the voluntary wildfire mitigation conservation easement require:

(a) the confinement of all structures that are not agricultural structures permitted on the owner's property, including commercial structures, residences, and associated residential structures such as garages, workshops, offices, recreational structures, and all other freestanding buildings, to development areas;

(b) that the location of any development areas on the owner's property must be approved in writing by the qualified voluntary wildfire mitigation conservation easement holder and that approval may only be granted after:

✓ (c) a written certification is provided by the property owner that a professional forester and the department both agree that the location of the proposed development area is consistent with fire protection priorities within that wildland-urban interface; and

Zoning
Regulations

(ii) the qualified voluntary wildfire mitigation conservation easement holder agrees that proposed development areas are consistent with protection of any other conservation purposes identified in the voluntary wildfire mitigation conservation easement;

(c) a maximum density of one development area for every 160 acres placed under conservation easement and an enforceable restriction that additional nonagricultural structures may not be permitted on fractional or remainder tracts that are also protected by the voluntary wildfire mitigation conservation easement or on adjacent properties owned by the owner or a related person if the density of residential development on those adjacent properties exceeds one residential structure for every 160 acres;

(d) an enforceable restriction on the division or subdivision of all property placed under the voluntary wildfire mitigation conservation easement into tracts of 160 acres or greater; and

(e) that the property owner conduct sound forest management activities in accordance with 76-13-115(7), including recommended best management practices for timber land management to reduce fire risk, including but not limited to:

(i) commercial and noncommercial timber harvests;

Noxious Weed Control?

(ii) thinning;

Loose Stock Grazing?

(iii) prescribed burns; and

(iv) insect and disease treatments;

Where is the local government on input?

(5) the property owner enters into a wildfire risk reduction plan with the department pursuant to [section 5]; and

(6) the qualified voluntary wildfire mitigation conservation easement holder agrees to:

(a) annually monitor the property owner's compliance with the terms of the voluntary wildfire mitigation conservation easement, including but not limited to those voluntary wildfire mitigation conservation easement terms required pursuant to subsection (4); and

(b) file an annual voluntary wildfire mitigation conservation easement monitoring report with the department.

Given the State of our National and local economies, we may not have a Timber Industry, to even deal with the fuel problem.

NEW SECTION. Section 5. Wildfire risk reduction plan – department rulemaking. (1) A private property owner in the state that grants a voluntary wildfire mitigation conservation easement shall enter into an agreement with the department to establish a wildfire risk reduction plan to reduce the risk of wildfire through land and property management activities.

(2) The terms of a wildfire risk reduction plan must include:

(a) property owner participation in a statewide forestry stewardship program or property owner participation with a professional forester to create a forest stewardship plan for the owner's property or other appropriate training and resource management programs for the property owner that are approved by the department in accordance with rules adopted pursuant to subsection (5).

Define what training? wildland, etc?

(4) voluntary wildfire mitigation conservation easements that are granted pursuant to local and state policies that define the wildland-urban interface and that seek to reduce wildfire risks in those areas also serve important state and local land and resource conservation policies and wildfire control policies;

2. (5) wildfire mitigation conservation easements can help assist in the character, direction, and timing of community development; and } *Are You Not Waiting to Reduce the Fire Danger? Form of a zoning Regulation?*

* (6) the state of Montana should encourage voluntary actions through the use of targeted incentives for owners of real property ~~located within the wildland-urban interface~~ that control wildfire risk and that help reduce the burdens and costs associated with fighting wildfires.

{ why Not all classified Forest Lands! }

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 5], unless the context requires otherwise, the following definitions apply:

(1) "Agricultural structure" means any building or structure that is used exclusively for or in conjunction with farming, ranching, livestock, or crop production and is not used for other commercial purposes, human habitation, or recreational purposes.

(2) "Conservation easement" has the meaning provided for in 76-6-104.

(3) "Covenant" means a real property covenant created in accordance with Title 70, chapter 17, part 2.

(4) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(5) "Development area" means a designated area within a property protected by a voluntary wildfire mitigation conservation easement not to exceed 1 acre in size in which nonagricultural, commercial, and residential structures are permitted.

(6) "Qualified voluntary wildfire mitigation conservation easement holder" means a public body as defined in 76-6-104 or a qualified private organization as defined in 76-6-104 that holds a voluntary wildfire conservation easement.

(7) "Recreational structure" means a building or structure that is dedicated, in whole or in part, to commercial or noncommercial sport, exercise, training, and other leisure activities.

(8) "Related person" means a person with relationships as described in section 267(b) of the Internal Revenue Code, 26 U.S.C. 267(b).

(9) "Residential structure" means a building or structure equipped with sleeping quarters that accommodates overnight use, including residences, guest houses, bunkhouses, agricultural employee housing, and similar structures designed or used for overnight human habitation.

(10) "Servitude" means an easement or real property servitude that runs with the land in accordance with Title 70, chapter 17, part 1.

No Definition: wildland Urban Interface.

(b) measures to ensure property owner compliance with best practices for development in the wildland-urban interface as provided in rules adopted pursuant to 76-13-104(8)(a); and

(c) compliance with construction techniques and materials for any new or replacement residential structures identified in rules adopted pursuant to 50-60-901.

(3) (a) The binding elements of a wildfire risk reduction plan must be established in a contract, covenant, or servitude that runs with the land for the term of the voluntary wildfire mitigation conservation easement created under [section 4]. The contract, covenant, or servitude must be recorded in the real property records of the county or counties in which the property subject to the wildfire risk reduction plan is located.

(b) The department shall conduct a review of the wildfire risk reduction plan once every 5 years.

(c) After a review is conducted pursuant to subsection (3)(b), the wildfire risk reduction plan must be updated and the property owner shall rerecord in the real property records of the applicable county or counties any elements of the wildfire risk reduction plan that reflect any new standards for construction, structure protection, or forest and wildfire risk management that have been adopted since the original plan was established pursuant to subsection (3)(a).

(4) (a) The department:

(i) shall enforce the terms of a wildfire risk reduction plan to which a local fire district, a county, or the department are parties through injunction or proceedings in equity; and

(ii) may enter the property, after notice to the owner of the property that is subject to the wildfire risk reduction plan, to ensure compliance with the plan.

(b) A qualified voluntary wildfire mitigation conservation easement holder may not enforce a wildfire risk reduction plan.

(5) The department shall adopt rules by October 1, 2009, that govern the creation, content, form, and requirements that must be included in a wildfire risk reduction plan subject to the provisions of this section.

NEW SECTION. Section 6. Credit for voluntary wildfire mitigation conservation easements. (1) An owner of real property within the state who grants a voluntary wildfire mitigation conservation easement pursuant to [sections 1 through 5] is allowed a credit against the taxes imposed by 15-30-103 in an amount equal to the value of a voluntary wildfire mitigation conservation easement placed on property not to exceed the lesser of \$100,000 or the taxpayer's income tax liability.

(2) In order to be eligible for a credit under this section, the department of natural resources and conservation shall certify to the department that the voluntary wildfire mitigation conservation easement complies with the requirements of [section 4] and that the property owner has entered into a binding wildfire risk reduction plan pursuant to the provisions of [section 5].

(3) (a) For the purposes of this section, the value of a voluntary wildfire mitigation conservation easement must be determined by the appraisal methodology established for qualified conservation contributions in accordance with current uniform standards of professional appraisal practice established for certified real estate appraisers under 37-54-403.

(b) An appraisal of a voluntary wildfire mitigation conservation easement must be conducted by an appraiser who is certified by the Montana board of real estate appraisers. A copy of the appraisal document must be provided to the department with the taxpayer's return in the tax year on which the credit is claimed.

(4) (a) A taxpayer may claim only one tax credit for each tax year under subsection (1), either directly or by a pass-through entity in which the taxpayer is a member or shareholder.

(b) If the sum of credit carryovers from the credit, if any, and the amount of credit allowed by subsections (1) and (2) for the tax year exceed the taxpayer's tax liability for the current tax year, the excess attributable to the current tax year's credit is a credit carryover to the 15 succeeding tax years. The entire amount of unused credit must be carried forward to the earliest of the succeeding years, and the oldest available unused credit must be used first.

(5) A taxpayer may not claim a new credit for the creation of a new voluntary wildfire mitigation conservation easement if the taxpayer has a carryover from an unused credit associated with a voluntary wildfire mitigation conservation easement granted in a prior year.

(6) The credit allowed in this section may not be allocated between spouses unless the property is used by a small business corporation or a partnership in which they are shareholders or partners.

(7) A credit held by an individual, either directly or as a result of a donation by a pass-through entity, survives the death of the individual and may be claimed by the decedent's estate.

(8) If the credit allowed under this section is claimed by a small business corporation, as defined in 15-30-1101, or a partnership, the credit must be attributed to shareholders or partners, using the same proportion to report the corporation's or partnership's income or loss for Montana income tax purposes.

NEW SECTION. **Section 7. Reports to the legislature.** (1) The department of revenue shall report to the 62nd legislature, as provided in 5-11-210, on the amount of tax credits allowed under [section 6].

(2) The department of natural resources and conservation shall report to the 62nd legislature, as provided in 5-11-210, on the department's progress in implementing the provisions of [sections 1 through 5], including any recommendations for improvements.

NEW SECTION. **Section 8. Codification instruction.** (1) [Sections 1 through 5] are intended to be codified as an integral part of Title 76, and the provisions of Title 76 apply to [sections 1 through 5].

(2) [Section 6] is intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to [section 6].

NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 10. Applicability. [Section 6] applies to tax years beginning after December 31, 2009.

NEW SECTION. Section 11. Termination. [Section 6] terminates December 31, 2012.

- END -

Latest Version of SB 129 (SB0129.01)

Processed for the Web on December 19, 2008 (4:42pm)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

See the status of this bill for the bill's primary sponsor.

[Status of this Bill](#) | [2009 Legislature](#) | [Leg. Branch Home](#)

[This bill in WP 5.1](#) | [All versions of all bills \(WP 5.1 format\)](#)

[Authorized print version w/line numbers \(PDF format\)](#)

[[NEW SEARCH](#)]

Prepared by Montana Legislative Services

(406) 444-3064

1 2008 Grady Ranches CE Monitor Visit (August 18) [IMG_3915.JPG]



3 [IMG_3917.JPG]



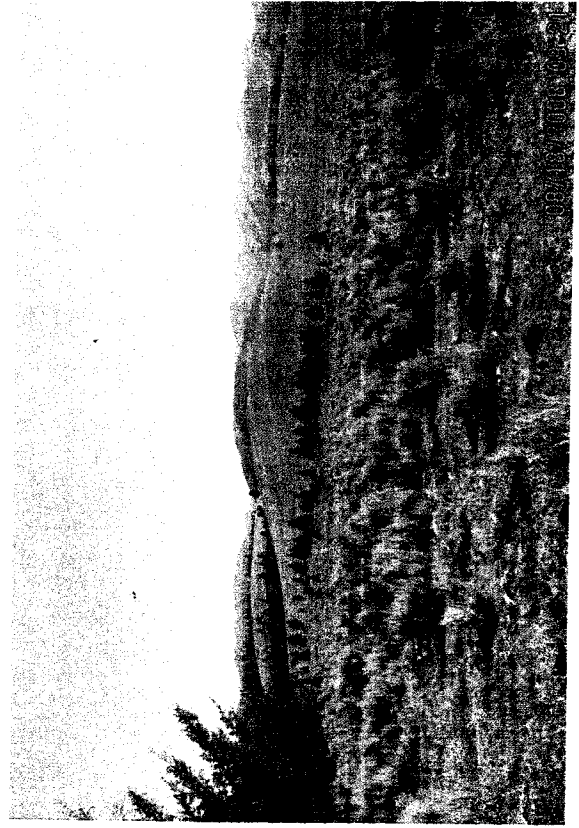
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BOARD OF COUNTY COMMISSIONERS

Andy Hunthausen

Michael A. Murray

Ed Tinsley

City County Building 316 North Park Helena, Montana 59623 406.447.8304 Fax: 406.447.8370

December 31, 2008

Richard E. Grady
PO Box 547
Canyon Creek, MT 59633

Dear Rick:

I am pleased to inform you that on December 30, 2008, the Board of County Commissioners took action to appoint you to the Lewis and Clark County Citizens Advisory Committee for preserving open space lands. Staggered terms of office will be determined at the first organizational committee meeting.

Our office will notify you in January of the first meeting. If you have any questions in the meantime, feel free to contact me at cbyrnes@co.lewis-clark.mt.us, or phone 447-8305.

Thank you for your interest in serving on the Citizens Advisory Committee. We look forward to working with you and your fellow committee members in the future.

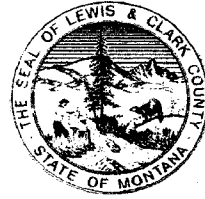
Sincerely,

Ed Tinsley, Chairman

TO: Sharon Hencley, Independent Record

DATE: December 5, 2008

CONTACT: Carole Byrnes, Executive Secretary
Lewis and Clark County
Board of County Commissioners
447-8305 / Fax 447-8370
I.R. Account # 60000278



PUBLISH: Block Ad, December 8 & 14, 2008

**LEWIS AND CLARK COUNTY CITIZEN ADVISORY COMMITTEE
(For Preserving Open Space Lands)**

On November 4th the voters of Lewis and Clark County approved the issuance of general obligation bonds in the amount of up to ten million dollars (\$10,000,000.00) for the purpose of preserving open-space lands in the county, including working lands and land for protecting water and wildlife, by providing funds to acquire conservation easements or other property interests from willing sellers.

The Board of County Commissioners (BOCC) is seeking applications for appointment to a Citizens Advisory Committee charged with reviewing and evaluating land conservation proposals, making recommendations on the expenditure of bond funds, and evaluating other opportunities for the voluntary conservation and preservation of open lands and natural areas in Lewis and Clark County. The committee will consist of 11 members, including representation from citizens residing in each of the six planning districts, and the cities of Helena and East Helena, and have one or more of the following qualifications or areas of expertise:

- | | |
|---|----------------------------|
| -Resident of Lewis & Clark County | -Communications |
| -Own and/or work Ranch/Farm/Timberland | -Rural Real Estate |
| -Heritage Lands Working Group Participant | -Development Industry |
| -Wildlife/Natural Resource Conservation | -Resource Extraction |
| -Financial/Banking | -Private Land Conservation |

Applications may be obtained from the office of the County Commission, Room 304, City-County Building, 316 N. Park Avenue, Helena, or online at www.co.lewis-clark.mt.us (boards and vacancies section). Terms will be established upon creation of the advisory committee. Applications will be accepted until 5 p.m. on Monday, December 22, 2008.

Further information may be obtained by calling the County Commission office at 447-8305.



Columbia Falls' Stoltze lumber mill to shut down for six weeks

By **MICHAEL JAMISON**
Missoulian

COLUMBIA FALLS — Yet another Flathead Valley lumber mill is cutting back production amid a national housing slump, sending about 50 workers home as of Feb. 2.

Management at F.H. Stoltze Land and Lumber Co. announced Tuesday that their Columbia Falls sawmill would temporarily shut

down for at least six weeks.

Plant accountant Jeff Clausen said "the folks on the tail end of the operation" the planers, kiln staff and shippers would remain on until they work through the last of the inventory. Loggers, too, will remain employed, building a log supply that the company will need to carry through spring break-up, once the mill reopens.

By that time, general manager Chuck Roady hopes, lumber sales will improve with the coming of the spring building season.

Outfits such as Stoltze that produce dimensional lumber for house building have been hard hit as demand fades. Prices, too, "are abysmal, just abysmal," Clausen said. "We're looking at prices down around a 30-year low."

Over at nearby Plum Creek Timber Co., Jim Lehner is not overly optimistic about a quick turnaround.

Lehner said a big part of the problem is housing starts. Four years ago, more than 2 million new homes were built nationwide. In 2008, that fell to about 600,000, "which represents a 60 percent decline in the number of homes being constructed," Lehner said.